

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KATYA HERNANDEZ,
Plaintiff,

Civ. No. 07-918-AA

OPINION AND ORDER

v.

UNITED STATES OF AMERICA;
MICHAEL A. MUKASEY, Attorney
General of the United States;
MICHAEL CHERTHOFF, Secretary
of Department of Homeland
Security, PAUL E. NOVAK,

Defendants.

AIKEN, Judge:

Plaintiff filed suit under the Administrative Procedures Act, appealing the determination by the United States Citizenship and Immigration Services (USCIS) that she is ineligible for special immigrant classification as a battered spouse of a United States

citizen. The USCIS found that plaintiff's prior criminal convictions prevented her from meeting the "good moral character" requirement. Plaintiff now moves to compel defendants to respond to requests for admissions and production of documents.

In her requests for admissions, plaintiff requests that defendants admit whether plaintiff otherwise meets the requirements for special immigrant classification as a battered spouse. However, the only issue in this appeal is whether USCIS erred in its interpretation or application of the good moral character requirement. Therefore, plaintiff's requests for admissions are not relevant to the issue before this court.

In her requests for production, plaintiff seeks documents that interpret or explain the meaning of good moral character and that USCIS relied on in its adjudication of plaintiff's petition. Defendants included in the administrative record the guidance memorandum that USCIS utilizes in determining whether an individual meet the good moral character requirement. Therefore, the administrative record contains these documents.

Plaintiff also requests that defendants produce all documents relating to plaintiff's case and USCIS's determination that she does not meet the good moral character requirement. Absent further specificity, I agree with defendants that plaintiff's request implicates documents used by USCIS in its deliberative process and protected from disclosure.

Accordingly, plaintiff's motion to compel discovery (doc. 15) is DENIED.

IT IS SO ORDERED.

Dated this 6 day of December, 2007.

 /s/ Ann Aiken
Ann Aiken
United States District Judge